REMARKS

At the outset, Applicants thank the Examiner for the thorough review and consideration of the pending application. Applicant have received and carefully reviewed the contents of the June 21, 2007 Office Action.

Claim 14 has been amended to correct an inadvertent typographic error. No new matter has been added. Accordingly, claims 1-14 are currently pending, of which claims 8-11 are withdrawn from examination. Reexamination and reconsideration of the pending claims are respectfully requested.

The Office objects to claim 14 for minor informality. Applicants have amended claim 14. Accordingly, Applicants respectfully request withdrawal of the objection to claim 14.

The Office rejects claims 1-2 and 12 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent Application Publication No. 2002/0050011 to Cho et al. (hereafter "*Cho*"). Applicants respectfully traverse the rejection.

The Office states "[i]t is well settled that the intended use of a claimed apparatus is not germane to the issue of the patentability of the claimed structure" and "[i]f the prior art structure is capable of performing the claimed use then it meets the claim." *Office Action*, page 3, line 24, to page 4, line 2. The Office then cites *In re Casey*, 54 C.C.P.A. 938, 370 F.2d 576, 152 U.S.P.Q. 235 (1967) and *In re Otto*, 50 C.C.P.A. 938, 312 F.2d 937, 136 U.S.P.Q. 458 (1963). Applicants submit that the Office correctly states the rule, but applies the rule incorrectly. In *Otto*, applicants appealed the decision of the Patent Office Board of Appeals affirming the rejection of claims 1-4 of U.S. Patent Application No. 512,520 as being obvious in view of six prior art references. *In re Otto*, 50 C.C.P.A. at 938, 940. C.C.P.A. affirmed the decision of the board and articulate the rule cited in the Office Action. *Id.*, at 940, 942. Similarly, in *Casey*, C.C.P.A. affirmed the 35 U.S.C. § 103 rejection of claims 1-6 of U.S. Patent Application No. 10,239 in view of three prior art refernces. *In re Casey*, 54 C.C.P.A. at 938, 940. It is evident that *Otto* and *Casey* only apply to obviousness rejection under 35 U.S.C. § 103. Note that, the Office rejects claims 1-2 and 12 under 35 U.S.C. § 102(b). Rejections based on anticipation and obviousness are different. The Office applies different rules with respect to the 35 U.S.C. §

102(b) and § 103 rejections. *See*, M.P.E.P. §§ 2133, 2141. Because the Office applies the rule incorrectly, the 35 U.S.C. § 102(b) is improper.

Furthermore, as required in M.P.E.P. § 2131, in order to anticipate a claim under 35 U.S.C. § 102, "the reference must teach every element of the claim." *Cho* does not teach every element of claims 1-2 and 12, and thus, cannot anticipate these claims.

Independent claims 1 and 12 recite, "a pulse sensor for sensing a pulse generated by said driven motor and outputting a voltage signal indicative of a width of the pulse," (emphasis added). *Cho* fails to teach or suggest at least this element of claims 1 and 12. The Office correctly points out that *Cho* discloses "a speed detector 111 for receiving the position detect signal from the rotor position detector 110 and detecting therefrom a driving speed of the motor 109." *Office Action*, page 3, lines 18-20. However, the Office fails to communicate that *Cho* further discloses that:

> The torque is developed in proportion to the current. Thus, if the q-axis current is constantly controlled, a constant torque would be generated by the motor, according to which the time taken to reach a certain speed according to the laundry amount can be detected to thereby sense the laundry amount. The present invention is based on this concept, which will now be described with reference to FIG. 4.

Cho, page 4, paragraph 0066, emphasis added. In other words, the rotor position detector 110 detects "the time taken to reach a certain speed." Therefore, *Cho* not only fails to teach or suggest the above-recited element of claims 1 and 12, but also teaches away from claims 1 and 12. Accordingly, claims 1 and 12 are allowable over *Cho*. Claim 2, which depends from claim 1, is also allowable for at least the same reasons as claim 1. Applicants, therefore, respectfully requests withdrawal of the 35 U.S.C. § 102(b) rejection of claims 1-2 and 12.

The Office rejects claims 3-7 and 13-14 under 35 U.S.C. § 103(a) as being obvious over *Cho*. Applicants respectfully traverse the rejection.

As required in M.P.E.P. § 2143.03, in order to "establish a *prima facie* obviousness of the claimed invention, all the limitations must be taught or suggested by the prior art." *Cho* fails to teach or suggest every element of claims 3-7 and 13-14, and thus, cannot render these claims obvious.

As discussed above, *Cho* not only fails to teach or suggest the above-recited element of claims 1 and 12, namely, "a pulse sensor for sensing a pulse generated by said driven motor and outputting a voltage signal indicative of a width of the pulse," but also teaches away from claims 1 and 12. Claims 3-7 and 13-14, which variously depend from claims 1 and 12, are also allowable for at least the same reasons as claims 1 and 12.

The application is in condition for allowance. Early and favorable action is respectfully solicited.

If for any reason the Examiner finds the application other than in condition for allowance, the Examiner is requested to call the undersigned attorney at (202) 496-7500 to discuss the steps necessary for placing the application in condition for allowance. All correspondence should continue to be sent to the below-listed address.

If these papers are not considered timely filed by the Patent and Trademark Office, then a petition is hereby made under 37 C.F.R. § 1.136, and any additional fees required under 37 C.F.R. § 1.136 for any necessary extension of time, or any other fees required to complete the filing of this response, may be charged to Deposit Account No. 50-0911. Please credit any overpayment to deposit Account No. 50-0911. A duplicate copy of this sheet is enclosed.

Dated: September 19, 2007

Respectfully submitted,

By Michael A. August (Reg. No. 46,522)
for **Mark R. Kresloff**
Registration No.: 42,766
McKENNA LONG & ALDRIDGE LLP
1900 K Street, N.W.
Washington, DC 20006
(202) 496-7500
Attorneys for Applicant